IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1631 of 1999
In
SPECIAL CIVIL APPLICATION No. 3167 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT AGRICULTURAL UNIVERSITY - Appellant(s)

Versus

RAJABHAI TEJABHAI RABARI - Respondent(s)

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Appearance :
MR DG CHAUHAN for Appellant(s) : 1,
MR RD RAVAL for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL

Date : 13/01/2006

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

The appellant – University has challenged in this appeal an order dated 15th October, 1999 passed by the

learned Single Judge (Miss R.M. Doshit, J.) in Special Civil Application No.3167 of 1999 dismissing the petition of the appellant – petitioner in limine.

2. The respondent workman had challenged the penalty order passed by the appellant – University by way of Reference (LCS) No.136 of 1989 before the Labour Court, Surendranagar. The Labour Court, by its impugned judgment and award dated 1st July, 1998, partly allowed the reference in favour of the respondent workman and directed the appellant – petitioner to reinstate the workman on his original post with 25% back wages and also awarded cost of Rs.200/-. This was challenged by the appellant before this court by way of writ petition i.e. Special Civil Application No.3167 of 1999 and as stated earlier, the said petition was dismissed by Miss R.M. Doshit, J. in limine but without recording reasons.

3. It was submitted by Mr. Chauhan that the learned Single Judge has dismissed his petition by observing that no interference was warranted without assigning any reasons for it. He, therefore, submitted that the order passed by the learned Single Judge dismissing his writ petition be quashed and set aside and the matter be

remanded to the learned Single Judge to decide the writ petition after assigning brief reasons. There is lot of substance in this submission made by Mr. Chauhan and in ordinary circumstances, we would have interfered with the order passed by the learned Single Judge and remanded the matter to the learned Single Judge for deciding the same by giving brief reasons. However, in the instant case, though the appeal was admitted by the Division Bench of this court way back on 29th March, 2000, no interim relief was granted. Therefore, the impugned judgment and award passed by the Labour Court has been already complied with by the appellant – University. Therefore, we have undertaken the exercise of going through the impugned judgment and award passed by the Labour Court whereby the Labour Court partly allowed the reference and ordered the appellant – University to reinstate the respondent workman on his original post with 25% back wages. Having carefully gone through the same, we find that the Labour Court has rightly come to the conclusion that the impugned order of termination was in violation of the provisions of the Industrial Disputes Act. Therefore, in our considered opinion, the Labour Court was absolutely justified in ordering reinstatement. Awarding 25% back wages by the Labour Court is also just and proper. After

all, it is the discretion of the Labour Court to award back wages. In a given case, the Labour Court may not award any back wages and in a given case, it may award 25%, 50% or full back wages. It depends upon the facts of the case. In the instant case, for awarding 25% back wages, the Labour Court has given cogent reasons. Hence, no interference is called for in this appeal for summarily rejecting the petition without assigning any reasons.

4. In view of the above discussion, this appeal fails and is hereby dismissed with no order as to costs.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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